Single Bench

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IN THE HIGH COURT OF JUDICATURE OF CHHATTISGARH

AT BILASPUR

WRIT PETITION NO.4653/2004

PETITIONER

Smt. Asha Gupta, W/o Shri B.P. Gupta, aged about 61 yrs., R/o- B-11/5, Indira Nagar, Lucknow, C/o Shri Raj Bahadur Kashyap, Adarsh Nagar Balvidaya Mandir, Gandhi Chowk, Raipur, Chhattisgarh.

P.R. No. 4693/04 Presented by Shri ... dated 27.11.04

VERSUS

RESPONDENTS

1. Municipal Corporation through: Commissioner Municipal Raipur.
2. Town Planning Authority, (Nagar Nivash Adhikari) Municipal Corporation Raipur, (C.G.)

WRIT PETITION UNDER ARTCLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN NATURE OF MANDUMUS CERTIORARY, AND/OR ANY OTHER SUITABLE WRIT OF LIKE NATURE

XI-HC—78

(34)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP 4653/05 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश |
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| | **07.1.2005**<br>On a mention being made, the case is taken up for hearing.<br>Shri Kishore Bhaduri, counsel for the petitioner.<br>The petitioner has preferred this petition with a prayer that respondents be directed to act in accordance with the provisions of Section 309 & 310 of the Municipal Corporation Act.<br>Brief facts leading to filing of this petition, as mentioned in the petition, are that the petitioner is owner of the house bearing No.9/11, 9/12, 9/13 & 9/13 situated at Budapara Ward, Raipur. The said house was gifted to the petitioner by her father through a registered deed dated 27.9.1971. On 1.5.1993 respondent No.2 served a notice on the petitioner saying that since the building has become dilapidated and unsafe for human habitation, same is required to be demolished by the petitioner herself, failing which demolition work will be carried out by the Municipal Corporation. Copy of the notice is Annexure P-3 to the writ petition. After receiving the notice the petitioner requested all the tenants to vacate the premises and in due course of time most of the tenants have vacated the premises, even the petitioner has also vacated the portion on 30.5.1993, which was in her possession and intimation to the said effect was given to the respondents vide Annexure P-4. Accordingly, respondent No.2 requested the Additional Collector, Raipur vide letter dated 10.3.1999 that to make arrangement for vacating the building from the tenants, since the building has become dilapidated and unfit for human habitation, but no action has been taken and nothing has happened thereafter. | |

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश — 2 — | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश |
|---|---|---|

The petitioner is the resident of Lucknow and on enquiry she came to know that one tenant namely Shekhar Chand Shrivastava, who is working in the Municipal Corporation, Raipur is not vacating the premises and being the employee of the Corporation, the Municipal Corporation is also not taking any action against him. Therefore, respondents be directed to take action in accordance with provisions of Section 309 & 310 of Municipal Corporation Act.

I have heard learned counsel for the petitioner.

Learned counsel for the petitioner argued that respondents be directed to demolish the building in view of the provisions of Sections 309 & 310 of the Act.

But, in the first instance, responsibility lies on the shoulders of the petitioner to demolish the building after receiving the notice from the respondents Corporation. Even she can herself act according to the provisions of the Act and if any tenant is not vacating the building then she is entitled to take course of remedy available to her under the law.

In view of the above, I do not find any substance in this petition, same is liable to be dismissed and it is, accordingly, dismissed at the admission stage itself.

Sd/-
L.C.BHADOO
Judge

Roshan L